

Notice of Allowability	Application No.	Applicant(s)	
	09/470,276	KOLODNER ET AL	
	Examiner	Art Unit	
	Jeffrey Fredman	1634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to May 8, 2003.
2. ☒ The allowed claim(s) is/are 2-4, 6-8, 10, 12, 39-43 and 45-48.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| <ol style="list-style-type: none"> 1 <input type="checkbox"/> Notice of References Cited (PTO-892) 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9 <input type="checkbox"/> Other |
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**JEFFREY FREDMAN
PRIMARY EXAMINER**

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ronald Eisenstein on July 2, 2003.

The application has been amended as follows:

Claim 41 was renumbered as claim 1.

Claim 3 was amended to:

3. An isolated nucleotide sequence segment consisting of at least 25 contiguous nucleotides from at least one exon from SEQ ID NO: 1, wherein the sequence is selected from the group consisting of exons 1-24 wherein exon 1 starts at position 235 and continues continuously for 221 basepairs, exon 2 is the next 160 basepairs, exon 3 is the next 124 basepairs, exon 4 is the next 81 basepairs, exon 5 is the next 63 basepairs, exon 6 is the next 122 basepairs, exon 7 is the next 110 basepairs, exon 8 is the next 36 basepairs, exon 9 is the next 83 basepairs, exon 10 is the next 46 basepairs, exon 11 is the next 139 basepairs, exon 12 is the next 63 basepairs, exon 13 is the next 129 basepairs, exon 14 is the next 73 basepairs, exon 15 is the next 110 basepairs, exon 16 is the next 81 basepairs, exon 17 is the next 88 basepairs, exon 18 is the next 190 basepairs, exon 19 is the next 127 basepairs, exon

20 is the next 150 basepairs, exon 21 is the next 75 basepairs, exon 22 is the next 144 basepairs, exon 23 is the next 138 basepairs and exon 24 is the next 74 basepairs.

Claim 6 was amended to:

6. A vector containing the DNA of claim 1 or 2 or 3.

Claim 10 was amended to:

10. A kit for determining an alteration in a mammalian MSH5 gene by DNA amplification comprising: a set of DNA oligonucleotide primers in a vial, the set allowing synthesis of a DNA encoding the DNA mismatch repair gene, wherein said primers are selected from the isolated nucleotide segments of claim 1 or 3.

2. The following is an examiner's statement of reasons for allowance: The claimed invention is drawn to specific nucleic acid sequences which are not taught or suggested by the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Fredman whose telephone number is 703-308-6568. The examiner can normally be reached on 6:30-4:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 703-308-1119. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.



Jeffrey Fredman
Primary Examiner
Art Unit 1634

July 2, 2003